

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/390,435 09/07/99 SPAKOUSKY

J 6479

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PM82/1011

EXAMINER

TRAN A/P	ART UNIT	PAPER NUMBER
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3635  
**DATE MAILED:**

15

10/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<h2 style="margin: 0;">Office Action Summary</h2>	Application No. <b>09/390,435</b>	Applicant(s) <b>John G. Spakousky</b>		
	Examiner <b>Phi Dieu Tran A</b>	Art Unit <b>3635</b>		
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>				
<b>Period for Reply</b>				
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p>				
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>				
<b>Status</b>				
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jul 23, 2001</u>				
2a) <input checked="" type="checkbox"/> This action is FINAL.      2b) <input type="checkbox"/> This action is non-final.				
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.				
<b>Disposition of Claims</b>				
4) <input checked="" type="checkbox"/> Claim(s) <u>1-15, 17-21, 24, 35, 38, 40, and 41</u> is/are pending in the application.				
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.				
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.				
6) <input checked="" type="checkbox"/> Claim(s) <u>1-15, 17-21, 24, 35, 38, 40, and 41</u> is/are rejected.				
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.				
8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.				
<b>Application Papers</b>				
9) <input type="checkbox"/> The specification is objected to by the Examiner.				
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.				
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.				
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.				
<b>Priority under 35 U.S.C. § 119</b>				
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).				
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).				
*See the attached detailed Office action for a list of the certified copies not received.				
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).				
<b>Attachment(s)</b>				
15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)				
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)				
17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>12</u>				
18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____				
19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)				
20) <input type="checkbox"/> Other: _____				

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 11 “connective structure is free of connection to any wall” is indefinite. The elected structure of figure 15a shows the center arm (208) having a surface flush with its wall and is thus consistent with the scope of claim 9. However, the limitation “...free of connection to any wall” is contradicting the invention. As one block is assembled into a wall, the connective structure **must** connect to a wall of an adjacent block, either directly or indirectly. The claimed limitation “free of connection” contradicts the invention, and thus is not considered. The claimed limitation “free of connection to any wall” is thus indefinite and thus must be corrected.

The claims are thus examined accordingly without the limitation “free of connection to any wall”.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1-5, 10, 17-19, 21, 24, 35, 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boeck in view of Young.

Boeck (figure 2) shows a discrete preassembled composite block unit having a first wall and a second wall, at least one of which is made from a first material, a substantially rigid connective structure formed of a second non-masonry type material and connected between the first and second walls, each connectors having arms (figures 1, 4) supporting the at least two connectors (36, 32), a center form (42, figure 4, the one close to connector 32) with first and second opposed sides, at least one of the arms supporting a connector projecting outwardly from each of the opposed sides of the center form, wherein the arm taper (from 36-54, taper part 48) such that the vertical cross-sectional area of the connective structure decreases as it extends away from the wall toward the center form, the connectors being an insert type, the walls having a connector formation that is matingly engaged by the connector, the connectors being frictionally engaged by the formations, at least one of the walls having surface treatment (inherently so for any surface as the treatment is not specified), at least one of the walls being unitary with the

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connective structure (after assembled, the connective structure and the walls being one, thus unitary), the projecting arm (45) being not the same from the other projecting arm (56) from the center form (42).

Boeck does not show the first material being masonry type.

Young discloses plastic foamed concrete walls forming the wall panels ( foamed concrete being masonry-type).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Boeck to show the walls being made of plastic foamed concrete material because plastic foamed concrete is a well-known material for making form concrete wall.

Boeck as modified shows all the claimed limitations.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boeck in view of Young.

Boeck as modified by Young shows all the claimed limitations except for the connectors being made of plastics.

Boeck (col 1 lines 20-24) discloses connectors being made of plastics.

It would have been obvious to one having ordinary skill in the art to modify Boeck to show the connective structure being substantially composed of a plastic material because using plastics for connective structure is common expedient in the art as plastics provide the properties of element resistance and light weight.

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6. Claims 1, 2, 6, 8, 17-19, 21, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horobin in view of Young.

Horobin (figures 1, 9, appendix A in previous office action) shows two walls connected by a substantially rigid connective structure, the structure having connectors(62, 64), two end arms (A, B) supporting at least two connectors, a center form (F) with first and second opposed sides, at least one of the arms supporting a connector projecting outwardly from each of the opposed sides of the center form, the arms (68, 18) taper (the angled section beside 68) such that the vertical cross section area of the connective structure decreases as it extends away from the walls toward the center form, a center arm (D) vertically displaced on the center form (E) with respect to the end arms, the connectors being made of a non-masonry-type material, at least one of the walls being unitary with the connective structure (after assembled, the connective structure and the walls are fixed together, thus unitary).

Horobin does not show the first material being masonry type.

Young discloses plastic foamed concrete walls forming the wall panels (foamed concrete being masonry-type).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Horobin to show the walls being made of plastic foamed concrete material because plastic foamed concrete is a well-known material for making form concrete wall.

Horobin as modified shows all the claimed limitations.

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7. Claims 1, 2, 6, 9, 12-14, 15, 17, 19-21, 24, 35, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart Jr. in view of Boeck.

Stewart Jr. (Figures 1, 6) shows first and second walls receiving a connective structure (12, 14, 15), the walls being of a masonry-type material (tile), the connective structure having a partition that forms a first cavity with the first wall, a second cavity with the second wall, at least one connector being V-shaped, two end arms (14), a center form (15) connecting two end arms, each arm projecting outwardly from each of the opposed sides of the center form, a center arm (20) vertically displaced on the center form (15, figure 1 corner), the top of the center arm being flush with the top of the first and second walls, the arms taper such that the vertical cross-sectional area of the connective structure decreases as it extends away from the walls toward the center form, insulating mass (23) having approximately the same height and width dimensions as first and second walls, the walls being made of different materials ( col. 4 lines 60-65) and having surface treatment, the connective structure having a partition that forms a first cavity with the first wall, a second cavity with the second wall, at least one connector having sides extending outwardly and received in a dovetail-shaped connector formation in the first second wall, the connectors being V-shape (dovetail being **substantially** V).

Stewart Jr. does not show the connective structure being of a non-masonry material, the first cavity being larger the second cavity.

Boeck (col 1 lines 20-24) discloses connectors being made of plastics.

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It would have been obvious to one having ordinary skill in the art to modify Stewart Jr. to show the connective structure being of a different material than the walls, the first cavity being larger the second cavity because using plastics for connective structure would enhance the connective structure's properties of element resistance and light weight.

Per claim 13, it is an obvious matter of design choice to make the first cavity larger than the second cavity as seemed fit by the designers to fit a particular application which requires one cavity having a different dimension from the other one.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart, Jr in view of Boeck and Smith.

Stewart Jr as modified by Boeck shows all the claimed limitations except for the center arm comprising at least one recess for receiving a reinforcing bar.

Smith shows the connective structure having at least one recess for receiving a reinforcing bar.

It would have been obvious to one having ordinary skill in the art to modify Stewart Jr. to show the center arm comprising at least one recess for receiving a reinforcing bar because it is common expedient in the art to provide a recess on a connective structure to receive a reinforcing bar as it would increase the structural strength of a wall structure.

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***Response to Arguments***

9. Applicant's arguments with respect to claims 1-15, 17-21, 24, 35, 38, 40-41 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi Dieu Tran A whose telephone number is (703) 306-9136. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:00. The examiner can also be reached on alternate Friday.

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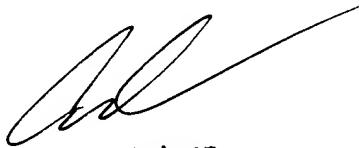
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Phi Dieu Tran A

*PTA*

10/4/2001



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600